

# SENIOR EXECUTIVE SERVICE RECERTIFICATION PLAN

INSPECTOR GENERAL DEPARTMENT OF DEFENSE

### OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE SENIOR EXECUTIVE SERVICE RECERTIFICATION PLAN

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#### I. Introduction

#### A. Purpose

- 1. Under Section 506 of the Ethics Reform Act of 1989 (Public Law 101-194, November 30, 1989) as further regulated in 5 CFR Parts 213, 317, 359, and 842, and amplifying guidance from the Office of Personnel Management (OPM), Senior Executive Service (SES) career appointees are subject to recertification by their agencies every third year, beginning in calendar year 1991. The Act adds section 3393a to title 5 of the United States Code. The section states that recertification is intended: "to ensure that the performance of career appointees demonstrates the excellence needed to meet the goals of the Senior Executive Service, as set forth in section 3131."
- 2. Thus, the Act aims at ensuring that the career members of the SES represent the best that this country has to offer in managing the public's business. It establishes a recertification process that goes beyond the annual performance appraisal which remains as one of the essential features of the SES, to look at how the executive has performed over a period of several years and whether the executive's overall performance during that period has demonstrated the excellence expected of a senior executive. It is intended to enhance the performance of the SES, to set a standard of excellence for members of the SES, and to assure that executives remain in the SES only when they perform at the expected level of excellence.

#### B. Coverage

- 1. To be subject to recertification in the Office of the Inspector General, Department of Defense (OIG, DoD), an executive must be an SES career appointee on August 31, 1991, or at the close of each recertification period thereafter (e.g., August 31, 1994; August 31, 1997), and must have been continuously employed in the SES for the preceding 156 weeks (i.e., 3 years, except that breaks in SES service totaling 6 months or less are not considered to interrupt the continuous service). The 156 weeks includes any service as an SES non-career or limited appointee and service in any agency as long as the executive is on OIG, DoD, rolls at the end of the recertification period (e.g., on August 31, 1991). Executives who do not meet these criteria at the end of a recertification period are not subject to recertification until the end of the next cycle.
- 2. SES non-career and limited appointees and former SES career appointees who took Presidential appointments with Senate confirmation to positions at Executive Level V or higher and elected to retain SES benefits are not subject to recertification.
- 3. If a career appointee is recertified in another agency and then transfers to the OIG, DoD, during the recertification period, the appointee is not subject to recertification in the OIG, DoD. If a career appointee who meets the recertification coverage criteria transfers from another agency to the OIG, DoD, before the end of a recertification year(e.g., by December 31, 1991) and a recertification determination has not been made, the appointee is subject to recertification in the OIG, DoD. The supervisor of the executive shall take steps to obtain previous performance appraisals and any other additional relevant information as is needed.
- C. When Recertification Takes Place. In the years in which recertification occurs, (e.g.,1991, 1994), the recertification process is carried out with the final steps of the SES Performance Planning and Evaluation process. At the time the evaluation phase of the performance appraisal is undertaken, the recertification evaluation takes place. The IG Form 1402.3-1, Performance Planning and Evaluation Form, is completed concurrently with the IG Form 1402.3-2, OIG, DoD, Senior Executive Service Recertification Form (Appendix A). Both processes must be completed before the end of the calendar year.

#### D. Relationship to Annual Performance Evaluation

- 1. The SES recertification process and the OIG annual performance appraisal process are complementary but separate. While the annual appraisal looks at how well the SES member has met the specific standards for his or her position for the year, the recertification process looks at the executive's performance over a period of 3 years. At the highest levels of Government management occupied by SES members, it often is not possible to fully judge the performance of an individual in as short a time span as 1 year since the impact of an executive's activities may not show up until a later time.
- 2. The performance planning and evaluation process in 1991 and ensuing recertification years must be completed before final recertification determinations can be made. Therefore, if the result of the performance rating is to remove the senior executive from the SES, the recertification becomes moot and the recertification process is terminated.

#### II. Standard for Recertification

- A. **Recertification.** To be recertified, the career appointee must perform at the level of excellence expected of a senior executive. Excellence means that the executive has demonstrated over the recertification period that he or she has achieved excellence in:
- 1. Planning for, substantially advancing and attaining Presidential, agency, or organizational goals and objectives that required a sustained superior effort;
- 2. Taking specific initiatives that advanced a major policy and/or significantly improved delivery of services;
- 3. Taking the necessary actions to ensure the achievement of a quality product in a timely manner;
  - 4. Making significant technical, scientific, or professional contributions; and, as appropriate.
  - 5. Achieving substantial savings in the execution of programs under his or her direction;
- 6. Maintaining the high quality and effectiveness of a program under his/her direction with reduced resources; and/or
- 7. Providing strong leadership to enhance the development, utilization, and achievements of subordinate personnel, including achievement of equal employment opportunity goals.
- B. **Basis for Recommendations and Determinations.** The supervising official of the career appointees shall submit to the Performance Review Board (PRB), a recommendation, on IG Form 1402.3-2, whether the executive's performance justifies recertification as a senior executive. Recertification decisions may not automatically be the result of a single factor (e.g., receipt of one or more Outstanding ratings), but are to be based on the following factors (it is not necessary to meet all the factors, but each should be considered to the extent relevant):
- 1. Performance ratings for the 3 years of the recertification period (e.g., in 1991 the ratings for 1989, 1990, and 1991 are to be taken into account);
- 2. Awards and other recognition, which may largely consist of the SES performance awards (bonuses) and Presidential rank awards, though it should be recognized that less than half of the career appointees can receive such an award each year. Other Government awards and awards from outside the Government should also be considered. Awards recognizing performance over a period of years that are received during the recertification period, even though some of the achievements recognized may have

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occurred before the recertification period, are included. Also included are awards received after the recertification period, but before the recertification determination, if the award recognizes performance that took place during the recertification period.

- 3. Developmental activities of the appointee. These include professional, educational, or self-development activities. Supervising officials should consider funding availability and the stage of the appointee's career (i.e., long-term executive versus newly appointed executive) when evaluating the extent to which a career appointee participated in developmental activities.
- 4. Other relevant qualitative factors. Other qualitative factors may include significant accomplishments on task forces or Boards outside of program responsibilities; leadership positions in internal or extra-governmental organizations; reputation in his or her field of expertise as reflected by speaking engagements and publications; SES pay increases when they are specifically related to performance.
- III. <u>Conducting the Recertification Process</u>. Before the beginning of each recertification determination process, executives who supervise career appointees and members of PRB's will be given training on the objectives and procedures of the recertification process.

#### A. Supervisory Recommendations

- 1. Before making a recertification recommendation, supervising officials may request a written statement of accomplishments from the executive in relation to the standard for recertification. The statement shall not exceed two pages in length. If the executive submits a statement, the supervising official will review and consider it.
- 2. The IG Form 1402.3-2 will be used to document all the steps in the recertification process. The Recertification Check List/Detailed Instructions (Appendix B) should be used by supervisors of SES members before submitting the SES Performance Planning and Evaluation and Recertification forms to the OIG PRB through the Employee Relations Division, Personnel and Security Directorate.
- 3. The first step in the recertification process is for the career appointee's immediate supervisor to make a recommendation as to whether the appointee should be recertified, conditionally recertified, or not recertified. There is no minimum length of time that an official must serve as a career appointee's supervisor before making a recertification recommendation; however, if the executive's supervisor has not served as the supervisor for at least 90 days, he or she should consult with and obtain relevant information from the executive's previous supervisor.
- 4. The supervisor should show on the form whether standards 5, 6, and/or 7, in paragraph II. A., are applicable to the responsibilities of the appointee. Performance ratings for the previous 2 years and SES bonuses and Presidential rank awards will be on the form when the supervisor receives it. The additional factors that must be entered on the form by the supervisor include the recommended rating for the current performance year e.g., July 1, 1990 to June 30, 1991, any significant awards in addition to SES bonuses and Presidential rank awards, any developmental activities of the appointee, and any other relevant qualitative factors. All material supporting the supervisor's recommendation must only cover the previous 3 years (e.g., September 1, 1988 to August 31, 1991).
- 5. If the supervising official recommends recertification, no written justification is required. A copy of the recertification form will be provided to the appointee.
- 6. If the supervisor is recommending that the career appointee be conditionally recertified or not recertified, the supervisor must include a narrative justification. The reasons should be specific enough so that the appointee will be able to understand why the action was taken and should be adequate

to support the OIG, DoD, case if the appointee appeals a removal action to the Merit Systems Protection Board (MSPB). Supervising officials should contact the Employee Relations Division for technical advice and assistance before preparing such a narrative. If recommending conditional recertification, the supervisor may also make a recommendation to lower the appointee's pay level.

- 7. The supervisor must then meet with the career appointee and inform the appointee of the recommendation. The appointee has 7 calendar days in which to prepare a written response. While all appointees have the opportunity to respond, it is encouraged by those that the supervisor recommends be conditionally recertified or not recertified and is not necessary for other appointees. The response will be attached to the form and become part of the permanent file. The appointee shall be given a copy of the recommendation and shall be requested to acknowledge receipt and advised of the right to submit a statement to the PRB of accomplishments and other documentation giving evidence of the quality of the appointee's performance in relation to the standards set forth in paragraphs II.A. 1-7.
- 8. The recertification form and any appropriate written documentation (i.e., the executive's statement of accomplishments, if provided to the supervising official, a narrative justification for a recommendation other than to recertify, etc.) shall be forwarded to the Chief, Employee Relations Division, Personnel and Security Directorate, along with the annual performance rating materials. The recertification materials, and performance rating documents will simultaneously be forwarded to the PRB by the Chief, Employee Relations Division.

#### B. Performance Review Board Recommendation

- 1. More than one-half of the membership of any PRB reviewing the performance appraisal of a career appointee shall be career appointees in the SES. Members may not participate in the review of their own performance ratings or ones that they have written or reviewed as a supervisor. No subordinate career employee may participate on a PRB when the recertification determination of the subordinate's supervisor is being considered. If a PRB needs more information to make a recommendation about recertification, it may request additional documentation from the supervisor or request that the supervisor or the employee appear before the PRB.
- 2. If the PRB concurs with the supervisor and also recommends that a career appointee be conditionally recertified or not recertified, the appointee shall be notified in writing and given 7 calendar days to prepare (additional) written material and/or to request an appearance before the PRB. The PRB meeting with the affected career appointees should be scheduled as soon as possible after the appointee's request to appear is received but not before the seven days has elapsed since the first notification. The recommendation of the PRB will be documented on the form.
- 3. If the PRB recommends that a career appointee be conditionally recertified or not recertified and the supervisor has recommended recertification, the appointee shall be notified in writing and given 7 calendar days to prepare written material and/or to request an appearance before the PRB. The PRB meeting with the affected career appointee should be scheduled as soon as possible after the appointee's request to appear is received but not before the seven days has elapsed since the notification by the PRB. The reasons for conditionally recertifying or not recertifying should be sufficient to support the OIG, DoD, case if the appointee appeals a removal action to MSPB. The Chief, Employee Relations Division, should be contacted for advice and assistance before the PRB's preparation of their written reasons to conditionally recertify or not recertify. The PRB recommendation will be documented on the recertification form. A copy of the recertification recommendation will be provided to the employee.
- 4. If the PRB recommends recertification, it may also recommend that the appointee's rate of basic pay be increased to a higher ES pay rate. If the PRB recommends conditional recertification, it may also recommend that the appointee's rate of basic pay be reduced to the next lower ES pay rate. These recommendations must be documented on the recertification determination form and provided to

the deciding official along with the supervisor's recommendation and any information received from the appointee.

#### C. Deciding Official

- 1. The deciding official who will make the final determination as to whether a career appointee shall be recertified, conditionally recertified or not recertified and whether the pay of those conditionally recertified should be lowered one level, is the Inspector General. If the position of the Inspector General is vacant, the Deputy Inspector General becomes the deciding official.
- 2. The appointee is not provided an opportunity to make a further presentation in writing or in person to the deciding official, except as specified in III. C. 6, below. The deciding official will make recertification determinations for each career appointee based upon the documentation and not based on any predetermined number or percentage of appointees who should be recertified, conditionally recertified, or not recertified.
- 3. A decision must be made about the current year's (e.g.,1991) performance rating and any bonus payment before a recertification determination can be made. Therefore, the OIG PRB's recommendations about performance ratings and bonuses will be sent to the Inspector General for final determination before the OIG PRB recertification recommendations are sent. The Inspector General must approve current performance ratings and bonuses before making decisions to recertify career appointees.
- 4. The recertification determination and any decision to lower the pay of any appointee conditionally recertified must be recorded on the recertification form and provided to the appointee.
- 5. If the Inspector General determines that the career appointee shall be recertified, the appointee shall continue in the SES. Further, the appointee's rate of basic pay may not be reduced at the time of recertification. The actions following a determination to conditionally recertify or not recertify a career appointee are described in IV. and V., below. If the decision is made to increase the appointees rate of basic pay, the pay level may be changed only once in a 12-month period.
- 6. In a case where the deciding official is making a decision to conditionally recertify or not recertify the appointee, yet the executive has not been given the opportunity to appear before the PRB because the supervising official and the PRB both recommended recertification, the deciding official will provide the specific reasons, in writing, to the appointee. The appointee will be given 7 calendar days to prepare written material and/or to request an appearance with the Inspector General. The meeting with the appointee should be scheduled as soon as possible after the appointee's request to appear is received but not before the 7 days have elapsed since the notification. The deciding official will consider all relevant information provided by the appointee, after which he or she shall make a final decision.

#### IV. Conditional Recertification

- A. **Required Actions.** If the deciding official determines that the appointee's performance warrants conditional recertification, the appointee:
- 1. Shall be provided a written copy of the recertification determination and supporting documentation.
  - 2. Remains a career appointee in the SES.
- 3. If so determined by the Inspector General, will have his or her pay lowered one level (once 12 months have elapsed since the appointee's last pay level adjustment).

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- 4. Must have a performance improvement plan (PIP), developed by the appointee's supervisor in consultation with the Inspector General and approved by Executive Resources Board. The PIP should include a description of the deficiencies in the appointee's performance, what constitutes satisfactory completion of the PIP, a statement of the support and assistance to be provided by the supervisor, and any formal training planned. The PIP shall conform with the performance standards for the performance year and should be in place no later than 60 days after the determination to conditionally recertify the appointee. Periodic progress review discussions shall be held and documented at least every 120 days, by the supervisor of the appointee and in coordination with the Executive Resources Board.
  - 5. Does not have a right to appeal to the MSPB.

#### B. End of Conditional Recertification

- 1. At the end of 12 months following conditional recertification, a new recertification determination must be made. The process for making the new determination shall be the same as for the initial recertification decision, including review and recommendation by the PRB. At this time, only two determinations are possible—the appointee must be either recertified or not recertified.
- 2. If the appointee is recertified, he/she shall remain a career appointee in the SES. If the appointee's pay was lowered one level, it shall be restored as of the beginning of the first pay period following recertification and the elapse of 12 months since the pay reduction. The appointee's next recertification period starts at the time he or she was initially conditionally recertified.
- 3. If the appointee is not recertified, he or she shall be removed from the SES according to the procedures used following an initial determination not to recertify, as described in V., below.
- 4. While a new recertification determination may be made only after the 12 months have elapsed, an appointee may be removed under the annual performance procedures, if appropriate, as long as the appointee has served the minimum appraisal period of 90 days.
- **V.** Removal for Failure to be Recertified. If the deciding official determines that a career appointee shall not be recertified, the appointee shall be removed from the SES in accordance with 5 U.S.C. 3592 and Subpart C of 5 CFR Part 359, except that reemployed annuitants shall be removed in accordance with Subpart I.

#### A. Written Notice

- 1. The appointee shall be notified in writing before the effective date of the action. If the appointee has completed the SES probationary period, or was not required to serve a probationary period, the notice shall be at least 30 calendar days before the effective date of the removal from the SES. An appointee serving a probationary period must receive a written notice at least one day in advance.
- 2. The notice shall include the completed recertification determination form and supporting documentation and shall advise the appointee of:
  - a. The basis for the action.
- b. The appointee's placement rights provided under 5 CFR 359.701-705. The position to which the appointee will be assigned shall be identified either in the original notice or in a supplementary notice issued no later than 10 calendar days before the effective date of the action (one day if appointee is still serving a probationary period).

- c. The appointee's right to appeal to the MSPB, including the time limit for appeal, the office to which an appeal should be sent, and that there is no provision for a stay in the removal action pending the appeal process.
  - d. The effective date of the removal from the SES.
- e. When applicable, the appointee's eligibility for immediate discontinued service retirement, in lieu of placement rights, with no annuity reduction based on age for appointees' covered by the Civil Service Retirement System (CSRS) and eligibility for an annuity supplement regardless of age for appointees covered by the Federal Employees Retirement System (FERS).
- B. **Moratorium on Removals**. In accordance with 5 U.S.C. 3592(b)(1), a career appointee in the OIG, DoD, may not be involuntarily removed from the SES within 120 days after the appointment of a non-career Inspector General.
- **VI.** Records. Recertification documentation shall be maintained in the career appointee's Employee Performance Folder (EPF) for 5 years from the date of the recertification determination. However, if an appointee is conditionally recertified, documentation of the final recertification determination shall be maintained for 5 years from the date of the conditional recertification determination. EPFs for SES members will be maintained in the Employee Relations Division, Personnel and Security Directorate.
- VII. <u>Consultation</u>, <u>Approval</u>, <u>and Distribution</u>. This document was developed in consultation with career appointees in the OIG, DoD, and approved by OPM. Copies of this document and any subsequent changes will be distributed to all SES members in the OIG, DoD.

#### APPENDIX A

OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE SENIOR EXECUTIVE SERVICE RECERTIFICATION FORM							
RECERTIFICATION PERIOD: September 1, to August 31,							
1. NAME OF APPOINTEE:			2. CURF	RENT PAY RATE: ES:			
3. POSITION TITLE AND ORGANIZATION:							
		SECTION 1 - ST	ANDARD FOR RECEI	RTIFICATION			
SECTION I - STANDARD FOR RECERTIFICATION  1. The career appointee in the Senior Executive Service must perform at the level of excellence expected of a senior executive. Excellence means that the appointee has demonstrated over the recertification period that he/she has achieved excellence in:  a. Planning for substantially advancing and attaining, Presidential, agency, or organizational goals and objectives that required a sustained							
superior effort; b. Taking specific initiatives	that advance a	major policy and/	or significantly im	proved delivery o	f services;		
c. Taking necessary actions	to ensure the a	chievements of a	quality product in	a timely manner;	and		
d. Making significant technic	cal or professio	nal contributions.					
If applicable to the responsibilities of the appointee, he/she must also demonstrate that he/she has achieved excellence in (check which apply):      Achieving substantial savings in the execution of programs under his/her direction. Yes							
a. Achieving substantial savings in the execution of programs under his/her direction. Yes No No  b. Maintaining the high quality and effectiveness of a program under his/her direction with reduced resources. Yes No							
c. Providing strong leadership to enhance the development, utilization and achievements of subordinate personnel, including achievement of equal employment opportunity goals.  Yes No							
3. Factors to be considered in	determining if c	areer appointee n	neets standard:				
						:	
a. Performance Ratings:	(YYYY)	(Rating)	(YYYY) ,	(Rating)	(YYYY) ,	(Rating)	
b. Performance Awards:		:		;	,	;	
,	(YYYY)	(Amount)	(YYYY)	(Amount)	(YYYY)	(Amount)	
(1) Presidential Rank Aw	ards: Distingui	ished:	; Meritorious:	-9 <sup>2-2</sup>			
(2) Other Awards and Re	cognition:						
c. Developmental Activities	:						
d. Other relevant qualitative	e factors:						

IG FORM 1402.3-2, MAY 1999

(Previous editions are obsolete)

	SECTION II - RECOMMENDATIONS/DET	ERMINATION		
The following recommendations/determinations are based on an assessment career appointee's overall performance during the recertification period in relation to the Standard for Recertification required by law, regulation and OIG written procedures; preceding recommendations and justifications; and appointee's attachments.				
1.	Supervisor's Recommendation:			
	Recertify Recommend pay rate adjustment to ES-	No pay rate adjustment recommended		
	Conditionally Recertify (Lower pay one step: Yes	No )		
	Not Recertify			
	If Appropriate: Justification attached			
	Signature:	Date:		
2.	Career Appointee's Acknowledgment:			
	I received a copy of my supervisor's recommendation.			
	I do do not wish to submit a statement.			
	Signature:	Date:		
3.	Performance Review board Recommendation::			
	Recertify Recommend pay rate adjustment to ES-	No pay rate adjustment recommended		
	Conditionally Recertify (Lower pay one step: Yes	No)		
	Not Recertify			
	If Appropriate: Justification and/or Response Attached			
	Signature:	Date:		
4.	Deciding Official's Determination:			
	Recertify Recommend pay rate adjustment to ES-	No pay rate adjustment recommended		
	Conditionally Recertify (Lower pay one step: Yes	No)		
	Not Recertify			
	If Appropriate: Justification attached			
	Signature:	Date:		
L IG	Form 1402.3-2, MAY 1999 (Reverse)	Page 2 of 2		

### APPENDIX B RECERTIFICATION CHECK LIST/DETAILED INSTRUCTIONS

- **A. Recertification.** IG Form 1402.3-2 must be completed on August 31 of a recertification year for every career appointee in the SES who has completed 3 years of continuous service in the SES except breaks of 6 months or less. All information should be for the 3-year period immediately preceding (e.g., for 1991; 9/1/88 to 8/31/91).
- **B.** Source of Forms. The form will be initiated by the Employee Relations Division, Personnel and Security Directorate, for covered appointees whose performance is reviewed by the OIG PRB and given to the appropriate supervisor for completion. The identifying items at the top of the form and the following items under "Factors to be considered in determining if career appointee meets standard" will already be filled in. The performance rating and bonus for the current year may not be entered until the Inspector General decides on the rating and bonus.

<u>First</u>: Make a determination as to which of the last three parts of the standard apply to the appointee. Check which apply:

a.	Achieving savings?
b.	Maintaining quality with reduced resources?
c.	Leadership of subordinates?
Secon	d: Have any additional awards of the appointee been entered?
	appropriate professional, educational, or self-development es been included?
	entry been made under Other Relevant Qualitative Factors f) in accord with written policy?
be rece recomi	Has the supervisor recommended whether appointee should extified, conditionally recertified, or not recertified and, if mending conditional recertification, whether the appointee's ould be lowered one level?
If non-	recertification has been recommended, is a written justification attached?
and if	1: Has appointee acknowledged the supervisor's recommendation, he/she wishes to (especially if recommendation is negative) provided mental written material?
	If the PRB's recommendation differs from the supervisor's, stiffication attached?
should	Has the Deciding Official recommended whether the appointee be recertified, conditionally recertified or not recertified and, if mending conditional recertification, whether the appointee's pay be lowered?
	Deciding Official's determination differs from the supervisor's, stification attached?



#### **APPENDIX C**

#### THE DEPUTY SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301

2 8 MAY 1991

MEMORANDUM FOR THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Delegation of Authority

I hereby delegate to the Inspector General, Department of Defense, the authority vested in the Secretary of Defense by 5 U.S.C. 3393a with respect to career appointees in the Senior Executive Service within the Office of the Inspector General.

Djatund

cc: Director of Administration and Management

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#### APPENDIX D



## United States Office of Personnel Management

Washington, D.C. 20415.

JUN 1 1 1991

Mr. Nicholas T. Lutsch
Assistant Inspector General for Administration
and Information Management
Department of Defense
400 Army Navy Drive
Arlington, VA 22202-2884

Dear Mr. Lutsch:

The purpose of this letter is to approve the Office of the Inspector General, Department of Defense's proposed SES Recertification Plan as required under section 317.504(j)(1) of Title 5, Code of Federal Regulations. Enclosed is a copy of the approved plan. Please provide a copy of any subsequent changes made to this plan.

Sincerely,

Susan Rochmer

Susan Roehmer
Acting Assistant Director for
Executive and Management Policy
Human Resources Development Group

Enclosure